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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Annual report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on human rights and states of emergency

Note by the Secretary-General

Addendum

The present addendum includes additional information which the Special Rapporteur wished to bring to the attention of the Commission on Human Rights.

Note by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mr. Leandro Despouy, on human rights and states of emergency

1. In its resolution 1997/27 of 28 August 1977, the Sub-Commission on Prevention of Discrimination and Protection of Minorities thanked the Special Rapporteur for the tenth annual list of States which, since 1 January 1985, had proclaimed, extended or terminated a state of emergency (E/CN.4/Sub.2/1997/19/Add.1) and for his final report (E/CN.4/Sub.2/1997/19), and recommended to the Commission that it should request the Secretary-General to publish the final report in all the official languages.

2. This note has a dual purpose: firstly, to update the information received by the Special Rapporteur since the preparation of the list in May 1997 and up to 28 February 1998 and, secondly, to provide some clarifications as to how he intends to proceed for the publication of his final report, which contains a study on the protection of human rights during states of emergency.

3. With regard to the information received after the preparation of the tenth list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency, the Special Rapporteur thanks the Government of Albania for the memorandum dated 8 August 1997 reporting that the state of emergency proclaimed on 2 March 1997 throughout the national territory had been terminated. Where Venezuela is concerned, the Special Rapporteur has received abundant information, from various sources, indicating that there does not at present exist in that country a declared state of emergency, nor a de facto situation equivalent thereto.

4. For its part the Government of the Republic of Korea, in a lengthy memorandum dated 5 August 1997, provided the Special Rapporteur with a whole series of regulatory and jurisprudential texts to prove the non-existence of an undeclared state of emergency and show that the normal application of the National Security Act did not constitute an emergency measure.

5. In a succession of communications the Permanent Mission of Peru to the United Nations Office at Geneva has informed the Special Rapporteur of the declaration or extension of a state of emergency in various parts of the country, as follows: on 14 October 1997, the extension for 60 days of the state of emergency in 12 districts of the department of Lima and in other localities of the departments of Coronel Portillo and Huanuco. A similar extension, and for the same period, took effect on 25 November in various provinces of the departments of Junín, Pasco, Huancavelica, Ayacucho and Cusco. On 15 December the state of emergency was again extended in several localities of the department of Lima.

6. With regard to the final report which contains the study on the protection of human rights during states of emergency and whose publication is requested, it should be noted that the material to be published includes only document E/CN.4/Sub.2/1997/19 and not addendum 1 which, as indicated above, contains the tenth list of States that, since 1 January 1985, have proclaimed, extended or terminated a state of emergency. This last decision reflected the Sub-Commission's wish to respect the budgetary and financial limitations

within which the Organization operates and also explains the regrettable but inevitable need to summarize in a few pages the extensive contents of a study of universal scope and manifest current relevance setting out the most important conclusions arrived at by the Special Rapporteur in his 12 years of uninterrupted work. For the same reason already indicated, it has been left until the time of eventual publication to make some stylistic changes and correct the order of some paragraphs that need rearranging. Nevertheless, apart from these questions of drafting which will be duly dealt with in the final publication, the Special Rapporteur will also take account of the suggestion put forward by several members of the Sub-Commission that he should broaden the framework of the findings set forth in the present study by incorporating at least some of the conclusions which feature in previous reports and which have been considered and approved by the Sub-Commission and the Commission.